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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 ERIC WILTON BURTON,

11 Petitioner,

12 v.

13 DIRECTOR OF CALIFORNIA
14 DEPARTMENT OF CORRECTIONS AND
REHABILITATION,

15 Respondent.

Civil No. 08cv0325-LAB (POR)

**ORDER DENYING PETITIONER'S
MOTION TO RESERVE AN
OBJECTION**

[Doc. No. 19]

16 On February 19, 2008, this case was transferred from the Eastern District of California to the
17 Southern District of California. Petitioner, a state prisoner proceeding *pro se*, filed a Petition for
18 Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma
19 pauperis and a motion for appointment of counsel. On May 27, 2008, Petitioner filed a motion to
20 reserve an objection, nunc pro tunc to May 16, 2008.

21 On April 18, 2008, the Honorable Larry Alan Burns granted Petitioner's application to
22 proceed in forma pauperis. However, in the same order, Judge Burns dismissed the petition without
23 prejudice for failure to use the proper form and failure to allege exhaustion of state court remedies.
24 According to the court's order, Petitioner must file a First Amended Petition no later than June 16,
25 2008 in order to reopen this case. Petitioner filed a First Amended Petition on June 20, 2008, nunc
26 pro tunc to June 18, 2008. The case was reopened on July 3, 2008.

27 In the instant motion, Petitioner seeks to reserve an objection to "the unnecessary use of
28 declarations and/or reporter's transcripts" in the resolution of his petition for writ of habeas corpus

1 and appeal. With respect to Petitioner's petition for writ of habeas corpus, Civil Local Rule HC.2
2 provides any party the opportunity to "serve and file written objections to the proposed findings and
3 recommendations" of the magistrate judge. See CivLR HC.2. Given that the Local Rules already
4 provide Petitioner an opportunity to serve and file objections, Petitioner's request to reserve an
5 objection is moot.

6 As to Petitioner's request to reserve an objection as relates to an appeal, Petitioner should
7 bring his motion before the United States Court of Appeals for the Ninth Circuit.

8 Accordingly, Petitioner's motion to reserve an objection is DENIED.

9 **IT IS SO ORDERED.**

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11 DATED: July 15, 2008

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14 LOUISA S PORTER
United States Magistrate Judge

15 cc: The Honorable Larry Alan Burns
16 all parties
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